

ACTION

OLL 85-2820

**Office of Legislative Liaison****Routing Slip**

TO:	ACTION	INFO
1. D/OLL		X
2. DD/OLL		X
3. Admin Officer		
4. Liaison		
5. Legislation	X	
6.		X
7.		X
8.		
9.		
10.		

SUSPENSE

21 Oct 1985

Date

Action Officer:

Remarks:

BC / 27 Sept 1985

Name/Date



**EXECUTIVE OFFICE OF THE PRESIDENT**

**OFFICE OF MANAGEMENT AND BUDGET**

WASHINGTON, D.C. 20503

September 23, 1985

**SPECIAL**

**LEGISLATIVE REFERRAL MEMORANDUM**

**TO:**           **Legislative Liaison Officer-**  
Department of Justice  
National Security Council  
Department of Defense  
Central Intelligence Agency ✓  
Office of Personnel Management  
Department of Energy  
Department of State

**SUBJECT:**   GSA draft report on H.R. 2994, "To amend the National Security Act of 1947 to establish by law a system for the security classification and declassification of sensitive information relating to the national security."

The Office of Management and Budget requests the views of your agency on the above subject before advising on its relationship to the program of the President, in accordance with OMB Circular A-19.

A response to this request for your views is needed no later than  
October 21, 1985

Questions should be referred to Sue Thau/Tracey Lawler (395-7300), the legislative analyst in this office.

*Ronald K. Peterson*

RONALD K. PETERSON FOR  
Assistant Director for  
Legislative Reference

**Enclosures**

**cc:**   Jill Kent  
      Arnie Donahue  
      Mike Horowitz  
      Bob Howard

**SPECIAL**



Services      Oversight  
Administration      Office

Washington, DC 20405

Honorable Les Aspin  
Chairman  
Committee on Armed Services  
House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

The Information Security Oversight Office (ISOO) wishes to submit its views on H.R. 2994, "To amend the National Security Act of 1947 to establish by law a system for the security classification and declassification of sensitive information relating to the national security, and for other purposes." ISOO is an administrative component of the General Services Administration, but receives its policy direction from the National Security Council.

ISOO opposes the enactment of H.R. 2994 for several reasons. First, we believe that it is unnecessary. The current system established by Executive Order 12356 for the classification, declassification, and safeguarding of national security information is working well. Given this fact, there is no reason at this time to legislate substitute provisions. Second, the system proposed in H.R. 2994 is not as complete as the one prescribed in E.O. 12356. The bill leaves out critical elements that may or may not be covered by subsequent regulations. Among them is the absence of any provision mandating oversight of the program by an impartial organization or by the agencies themselves. Another is the proposal's failure to deal with the essential area of security education and training.

ISOO also opposes enactment of H.R. 2994, because administration of the security classification system requires flexibility and the means to act quickly. Recent events support the need for the executive branch to have sufficient maneuverability to deal with fast-breaking security-related matters. Such flexibility would not be guaranteed by incorporating the classification system into a statute.

There is a further problem with regard to Titles V and VI. Although ISOO defers to the views of the Department of Justice on legal matters, it is our view that these sections of H.R. 2994 pose serious constitutional issues. Specifically, we believe that these titles infringe directly on the President's Article II powers as architect of United States foreign policy and as Commander in Chief. To date, it has been the President's prerogative to establish the parameters of the system regulating the classification, declassification, and safeguarding of sensitive national defense and foreign affairs information. The President's responsibilities in this area have been recognized statutorily by Congress in such legislation as the Freedom of Information Act (5 U.S.C. § 552(b)(1)).

Enclosure

Title VII would establish penalties for the unauthorized disclosure of classified information by Federal employees. While ISOO agrees generally with the goals of this provision, it believes enactment of legislation in this area at this time is premature, pending the results of an ongoing review of the issue within the executive branch.

The Office of Management and Budget has advised that from the standpoint of the administration's program, there is no objection to the submission of this report to your committee.

Sincerely,

STEVEN GARFINKEL  
Director